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U.S. DISTRICT COURT

N.D. OF ALABAMA

2019 May-15 PM 02:36

U.S. DISTRICT COURT

N.D. OF ALABAMA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	Civil Action No.
<b>v.</b>	)	<b>4:18-CV-001570-ACA</b>
	)	
<b>PILGRIM'S PRIDE CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

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**CONSENT DECREE**

**I. INTRODUCTION**

The United States Equal Employment Opportunity Commission ("EEOC" or "Commission") filed a lawsuit against Pilgrim's Pride Corporation ("Pilgrim's Pride" or "Defendant"), pursuant to Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Anthony Burks ("Burks" or "Charging Party").

**II. GENERAL PROVISIONS**

**It is ORDERED, ADJUDGED AND DECREED:**

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. This Consent Decree is entered into by the Commission and Pilgrim's Pride. This Consent Decree, and its terms, shall be final and binding on the EEOC and Pilgrim's Pride, including its present and future representatives, agents, officers, managers, successors and assigns.

3. This Consent Decree shall resolve all claims which were raised by the EEOC in its Complaint in Civil Action No. 4:18-cv-001570-ACA. This Consent Decree does not affect any other administrative charges that may be pending with the EEOC or any other cases pending in this or any other court. This Consent Decree shall not constitute an adjudication of or finding on the merits of the case and shall not be construed as an admission by Defendant of a violation of the ADA. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event that any party is found to be in contempt of this Consent Decree.

4. This Consent Decree shall be filed in the United States District Court for the Northern District of Alabama, Middle Division, and shall be in effect, and continue to be in effect, for a period of four (4) years from the date of entry of this Consent Decree by the Court.

5. Any modification of this Consent Decree by any party shall be made by motion to the Court.

6. The Court shall retain jurisdiction over this case in order to enforce the terms of the Consent Decree.

7. This Consent Decree shall apply to all of Defendant's employees at its poultry processing facility in Guntersville, Alabama.

8. Prior to the full or partial sale or transfer of Defendant ownership rights or interests, Defendant shall provide written notice of this Consent Decree and its contents to any potential purchaser or transferee. Defendant shall send the Commission a copy of the written notice at the same time it sends the written notice to the purchaser or transferee.

**III. GENERAL INJUNCTIVE RELIEF**

9. Defendant, including its officers, agents, employees, successors, and assigns, and all of those in active concert or participation with them are permanently enjoined for the duration of this Consent Decree from the following:

- A. Discriminating against a qualified employee on the basis of a disability, perceived disability, or record of disability.
- B. Taking adverse employment action (for attendance-related issues) against an employee, including a probationary employee, with a known disability without first engaging in good faith in an interactive process with that employee to explore possible accommodations.
- C. Assigning points to an employee, including a probationary employee, under Defendant's attendance policy for attendance-related issues where the employee's absence or tardiness is due to known ADA disability-related reasons, where assigning of such points would otherwise be indicated by Defendant's work rules and procedures.
- D. Retaliating against any person because such person has opposed any practice made unlawful under the ADA, filed a Charge of Discrimination under the ADA, testified or participated in any manner in any investigation, proceeding, or hearing under the ADA, or asserted any rights under this Decree.

**IV. CHARGING PARTY'S RELIEF**

10. Pilgrim's Pride shall pay to Anthony Burks the gross amount of \$50,000 for back pay and compensatory damages. The payment shall be made no later than fourteen (14) days after this Consent Decree is entered by the Court and a fully executed W9 is received from Burks. A certified check for the full payment shall be sent to Burks, by certified mail to the current address

of Burks, to be provided by the Commission to the Defendant. Defendant shall simultaneously mail a copy of the check to the Regional Attorney, Birmingham District Office, 1130 22nd Street South, Birmingham, Alabama 35205. Defendant shall provide Burks appropriate tax reporting forms by the legally required date.

**V. POLICIES AND PROCEDURES**

11. Within sixty (60) calendar days after entry of this Consent Decree, Defendant shall review, and if necessary, revise its comprehensive policies and procedures to ensure that employees at its poultry processing facility in Guntersville, Alabama are not subject to discrimination made unlawful by the ADA. At a minimum, Defendant's policies and procedures shall contain and provide for the following:

- (A) a requirement that Defendant's upper-level plant management and human resources employees be trained on the requirements of the ADA;
- (B) notice to employees and applicants (via the policies and procedures, a poster displayed in a public area of each of Defendant's facilities, and on Defendant's intranet) of their rights under the ADA, including their right to a reasonable accommodation;
- (C) written notice to employees in a document provided as part of a Leave of Absence packet to employees eligible for medical leave, of their rights under the ADA, including their right to a reasonable accommodation;
- (D) a provision for disciplinary action, up to and including termination, that shall be imposed on supervisors, managers and human resources employees who violate the ADA, this Consent Decree, or Defendant's ADA policies and procedures;
- (E) a process for employees to seek a reasonable accommodation under the ADA;
- (F) a process for employees to report complaints of ADA-related discrimination and retaliation;
- (G) a system for ensuring the dissemination to all Pilgrim's Pride employees of a copy of Pilgrim's Pride's ADA policy and procedures;

- (H) an assurance of non-retaliation for persons who wish to request a reasonable accommodation or who report that they have been discriminated against or witnessed discrimination in violation of the ADA;
- (I) a process for conducting reasonable accommodations determinations and maintaining records reflecting that process;
- (J) an assurance that Pilgrim's Pride will comply with its duty under the ADA to provide reasonable accommodations to qualified employees when doing so does not cause an undue hardship to the Defendant;
- (K) a requirement that Pilgrim's Pride will engage in good faith in the ADA-required interactive process with employees with known disabilities to explore possible accommodations for those employees; and
- (L) a requirement that Pilgrim's Pride will not assign points for attendance-related issues where an employee of Defendant, including a probationary employee, is absent or tardy due to known ADA disability-related reasons, where assigning of such points would otherwise be indicated by Defendant's work rules and procedures.

12. Defendant shall promptly and appropriately investigate all complaints of discrimination and retaliation under the ADA. The investigation of all such complaints shall be documented.

#### **VI. TRAINING FOR MANAGERS AND EMPLOYEES**

13. Within ninety (90) days of the entry of this Consent Decree the following training will be conducted:

- (A) In-person training shall be conducted for all salaried supervisory, salaried managerial, and human resources personnel employed at Defendant's Guntersville, Alabama poultry processing facility. This training session shall be two hours in duration and shall cover all aspects of the ADA including, but not limited to, the legal requirements of the ADA, prohibition against discrimination and disparate treatment of employees with actual or perceived disabilities, the definition and examples of a

reasonable accommodation under the ADA, the interactive process as it relates to a request for a reasonable accommodation, resources for determining and identifying reasonable accommodations, procedures for providing reasonable accommodations to individuals with disabilities, prohibition against retaliation and coercion against employees who engage in activity protected by the ADA, and Pilgrim's Pride's internal ADA policy and procedures. The training shall conclude with a minimum of fifteen (15) minutes for questions and answers.

(B) For all other Guntersville plant personnel (hourly and salaried non-exempt), training may be conducted in person or via online or computer-based human resources training module. If the training is conducted by online or computer-based module, it shall also shall cover all aspects of the ADA including, but not limited to, the legal requirements of the ADA, prohibition against discrimination and disparate treatment of employees with actual or perceived disabilities, the definition and examples of a reasonable accommodation under the ADA, the interactive process as it relates to a request for a reasonable accommodation, prohibition against retaliation and coercion against employees who engage in activity protected by the ADA, and Pilgrim's Pride's internal ADA policy and procedures. The module shall include questions with answers provided. In addition, the module will include contact information for individuals in Human Resources who are available to answer questions.

14. All persons attending the training shall sign a registry of attendance. Defendant shall retain the registry for the duration of this Consent Decree.

15. The training shall be repeated (with modifications to ensure its compliance with the law) on an annual basis during the term of this Consent Decree.

16. The training and education for employees may be videotaped for review by absent employees and employees working on night shift, and shall also include practical examples aimed at the prevention of discrimination.

17. Training shall be provided to all new or rehired employees within three (3) months of their initial employment or rehire and shall cover all of the topic areas discussed during the live training.

18. Each training session shall be delivered in accord with an outline prepared at least two weeks in advance of the training. The outline, including all training materials (pamphlets, brochures, agendas, videos), shall be delivered to the EEOC Birmingham District Office, to the attention of the Regional Attorney at the address set out above at least one week in advance of each training session. Acceptance or review of these materials by the Commission shall not constitute approval of the said materials, but may be retained for compliance purposes. The training shall be presented by trainers or educators with knowledge and expertise in the requirements of the ADA, and the prevention of discrimination and retaliation and may be presented by Defendant's Human Resources professionals with such knowledge and expertise.

19. Pilgrim's Pride may add to this training depending on its needs.

20. Pilgrim's Pride shall provide the EEOC at least fifteen (15) days advance notice of the date, time, location and substance of the initial training and shall permit any representative of the Commission to attend and observe the planned training upon the Commission giving reasonable notice to Pilgrim's Pride.

21. Within ninety (90) days of the entry of this Consent Decree, Pilgrim's Pride shall provide the Birmingham District Office of the Equal Employment Opportunity Commission with proof of the action taken to inform and train its personnel as outlined herein and thereafter shall

supplement the report to include any additional training that occurs for the duration of this Consent Decree. The report(s) shall be mailed to Regional Attorney, Birmingham District Office of the Equal Employment Opportunity Commission (EEOC), 1130 22nd Street, South, Suite 2000 Birmingham, AL 35205.

**VII. OTHER RELIEF**

22. Defendant shall segregate into a confidential file, and not disclose to any employee or non-government third party (unless such documentation is the subject of a court order), any and all documents, information, and references to all facts or matters underlying or related to Burks' involvement in Charge No. 846-2016-12647 and this lawsuit.

23. Defendant shall expunge from the personnel files of Burks, all documents, information, and references to all facts or matters underlying or related to the aforementioned charge and the EEOC's Complaint.

24. Defendant, including its officers, agents, employees, successors, and assigns shall be enjoined from providing negative, derogatory or otherwise unfavorable information about Burks, that relates to his character, reputation, conduct, or performance while employed at Defendant to persons who contact Defendant, its officers, agents, employees, successors and assigns seeking employment, licensure and character references or any other information related to him. In the event Defendant receives any request for information, whether verbal or written, from potential employers, prospective employers or third parties seeking references or information about Burks, Defendant shall inform such potential employer(s), prospective employer(s) or third party that its policy and practice is only to provide the dates of an individual's employment, the position held by that individual, and, if requested by Burks, his final pay rate while employed at Defendant. Notwithstanding the foregoing, nothing in this Consent Decree should be construed

as prohibiting Defendant from responding to or otherwise complying with a lawful court order issued after Defendant's communication to the subpoenaing party that the information or documents sought pursuant to the subpoena are, or may be, subject to this Consent Decree.

**VIII. POSTING OF NOTICE**

25. Pilgrim's Pride shall post and cause to remain posted the posters required to be displayed in the workplace by Commission Regulations, and shall also post such notices on its intranet pages and electronic bulletin boards.
26. Within thirty (30) calendar days after entry of this Decree, Pilgrim's Pride shall post, and cause to remain posted for the duration of this Consent Decree, 8½-inch-by-11-inch sized copies of the notice attached as Exhibit A to this Consent Decree on its intranet pages and all bulletin boards, including electronic bulletin boards, usually used by Defendant at Pilgrim's Pride's poultry processing facility in Guntersville, Alabama for announcements, notices of employment policy, or practice changes to employees, during the term of this Consent Decree.

**IX. REPORTING**

27. On an annual basis for the duration of the Consent Decree, Defendant shall provide the Birmingham District Office Regional Attorney a report on the training conducted under this Consent Decree.
28. Within thirty (30) days after completing the review required by Section V of this Decree, Pilgrim's Pride shall report to the EEOC that the review has been completed and provide a report detailing the steps it has taken to remedy any disability discrimination as a result of the review.

**X. SUCCESSOR NOTIFICATION**

29. Defendant shall provide notice and a copy of this Decree to any successors or any other corporation or other entity that acquires Defendant and any other corporation or other entity into

which Defendant may merge. The successors or acquiring entities shall be fully liable for complying with the terms of the Decree.

**XI. DISPUTE RESOLUTION**

30. In the event that the Commission believes during the term of this Consent Decree that Pilgrim's Pride has failed to comply with any provision(s) of the Consent Decree, the Commission shall notify Pilgrim's Pride or its counsel of the alleged non-compliance and shall afford Pilgrim's Pride ten (10) calendar thereafter to remedy the non-compliance or to satisfy the Commission the alleged non-compliance is not well founded. If Pilgrim's Pride has not remedied the alleged non-compliance or satisfied the Commission that it has complied within ten (10) calendar days, the Commission may apply to the Court for appropriate relief.

**XII. COSTS AND ATTORNEYS' FEES**

31. The parties shall bear their own attorneys' fees and costs incurred in this action up to the date of the entry of this Consent Decree.

**XIII. FORCE AND EFFECT**

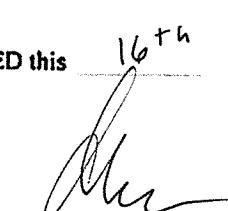
32. The duration of this Consent Decree shall be four (4) years from its entry.

33. The Court shall retain jurisdiction for the duration of the Consent Decree, during which the Commission may petition this Court for compliance with this Consent Decree. Should the Court determine that Defendant has not complied with this Consent Decree, appropriate relief, including extension of the Consent Decree for such period as may be necessary to remedy its non-compliance, may be ordered.

34. Absent extension, this Consent Decree shall expire by its own terms at the end of four (4) years from the date of entry of this Consent Decree without further action by the Parties.

35. The Parties agree to the entry of this Consent Decree subject to final approval by the Court.

SO ORDERED, ADJUDGED, and DECREED this 16<sup>th</sup> day of  
May, 2019.

  
HONORABLE ANNEMARIE CARNEY AXON  
U.S. DISTRICT COURT JUDGE

APPROVED AND CONSENTED TO BY:

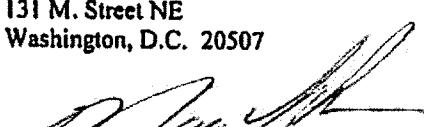
  
AUTHORIZED REPRESENTATIVE,  
PILGRIM'S PRIDE CORPORATION

  
ATTORNEY FOR PILGRIM'S PRIDE  
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131 M. Street NE  
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GERALD L. MILLER  
Supervisory Trial Attorney

RUSSELL PARKER  
Trial Attorney

**U. S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Birmingham District Office  
1130 22nd Street South, Suite 2000  
Birmingham, AL 35205-2886  
Telephone: (205) 212-2045**

**Attorneys for Plaintiff EEOC**

**EXHIBIT A**  
**NOTICE**

It is the policy of Pilgrim's Pride Corporation to offer employment opportunities to all qualified employees and applicants, regardless of race, age, sex, color, religion, national origin, or disability. There will be no discrimination in violation of the provisions of Title VII of the Civil Rights Act of 1964, as Amended; the Age Discrimination in Employment Act (ADEA) of 1967; the Equal Pay Act (EPA) of 1963; Title I of the Americans with Disabilities Act Amendments Act of 2008 (ADA); or the Genetic Information Nondiscrimination Act of 2008 (GINA).

We wish to emphasize that it is Pilgrim's Pride's policy to provide equal opportunity in all areas of employment practices. All employees shall feel free to exercise their rights under this policy. Pilgrim's Pride will provide reasonable accommodations to qualified employees when doing so does not cause an undue hardship to the company. Pilgrim's Pride will engage in good faith in the required interactive process under the ADA to explore accommodations for employees in the workplace. Pilgrim's Pride will not assign points for attendance-related issues where an employee is absent or tardy due to known ADA disability-related reasons and as otherwise provided by the Company's work rules and procedures.

Pilgrim's Pride will not retaliate against any employee because he or she has opposed any practice made an unlawful practice under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act (ADEA) of 1967; the Equal Pay Act (EPA) of 1963; Title I of the Americans with Disabilities Act Amendments Act of 2008 (ADA); and the Genetic Information Nondiscrimination Act of 2008 (GINA); or has filed charges, testified, assisted or participated in any manner in any Civil Rights Act investigation, proceeding, hearing or lawsuit.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. Any report of such an allegation will be thoroughly investigated, with appropriate sanctions taken against any person(s) found to have engaged in inappropriate conduct. An employee who believes his or her rights have been violated may also contact the U. S. Equal Employment Opportunity Commission for the purposes of filing a charge of employment discrimination. Please be aware that there are strict time periods for filing such charges. Pursuing internal remedies provided by Pilgrim's Pride does not extend the time which you may have to file charges with the EEOC.

The address and telephone number of the nearest office of the Equal Employment Opportunity Commission is:

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Birmingham District Office**  
**Ridge Park Place**  
**Suite 2000, 1130 22<sup>nd</sup> Street South**  
**Birmingham, AL 35205**  
**Telephone: (205) 212-2104**

**DO NOT REMOVE THIS NOTICE!**

